

## **EXHIBIT A**

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### VIA FEDEX AND E-MAIL

Lori McKenna  
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Re: [REDACTED], [REDACTED] & [REDACTED]

Dear Ms. McKenna:

We have been retained to represent [REDACTED] and [REDACTED] with regards to the exclusion of their children [REDACTED], [REDACTED], and [REDACTED] from school at William S. Hackett Middle School and Delaware Community School. As I am sure you are aware, [REDACTED] and [REDACTED] children had previously attended school with a religious exemption to vaccination so are now having to catch-up on their vaccinations.

[REDACTED]

[REDACTED] is a medically fragile child. On or about September 9, 2019, [REDACTED] & [REDACTED] submitted a medical exemption for [REDACTED] that was written and signed by his treating physician. Prior to receiving the denial of this medical exemption, [REDACTED] was excluded from school on September 23, 2019. *Exhibit 1, Exclusion Letter*. Although dated, September 24, 2019, the denial of the medical exemption was not received by the family until September 25, 2019, after [REDACTED] had already been excluded. *Exhibit 2, Denial of Medical Exemption*. [REDACTED] medical exemption states that the reason for the medical exemption is that he has a “genetic mutation of the MTHFR gene.” *Exhibit 3, Medical Exemption*. [REDACTED], however, also has a rare disease, Hirschsprung’s Disease. [REDACTED] cannot safely have antibiotics, certain fruits, dairy products, or sunscreen, as they cause [REDACTED] to have terrible reactions. [REDACTED] cannot even have tap water as this causes [REDACTED] to have severe diarrhea, and a red, raw, bleeding bottom.

Due to concern over [REDACTED] medically fragile condition, [REDACTED] reached out to Senator Neil D. Breslin’s office and inquired whether her [REDACTED] would qualify for a medical exemption under the new law. *Exhibit 4, E-Mails with Senator Breslin’s Office*. A Legislative Director from Senator Breslin’s office, Mr. Matthew Barron, responded to [REDACTED] and

indicated that he reached out to the Department of Health. (*Id.*). Specifically, his email states “I spoke with someone at the Department of Health yesterday about your issue [b]ased on what you told me I think you have a case for a medical exemption and you should reach out to your [REDACTED] doctor or physician and really argue that Hirschsprung’s disease should be applicable because with it, it is risky to take vaccines.” (*Id.*). The letter from Senator Breslin’s office included the link to the NYS Department of Health’s website where the medical exemption form can be found. (*Id.*).

[REDACTED] and [REDACTED] have reached out to [REDACTED] local gastroenterology specialist and his pediatrician to discuss a more detailed medical exemption for [REDACTED]. Under these circumstances, we request that [REDACTED] be allowed to remain in school until at least October 8, 2019 to allow the family a chance to consult with [REDACTED] treating physicians and obtain a more detailed explanation of his condition that warrants a medical exemption.

[REDACTED]  
[REDACTED] and [REDACTED] have begun the catch-up schedule for their [REDACTED], [REDACTED] [REDACTED] was vaccinated with the meningococcal vaccine (Menactra) on September 23, 2019. *Exhibit 5, Letter with [REDACTED] Vaccines Received and Future Vaccination Dates, from Dr. Kari W. Bovenzi, dated September 23, 2019.* [REDACTED] was then excluded from school on September 23, 2019. [REDACTED] is due to be vaccinated with DTaP (Adacel) on October 8, 2019. (*Id.*). The New York State Public Health Law §2164(8) states “[i]f any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child’s health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child’s health.” [REDACTED] treating physician has written and signed a letter stating that she believes [REDACTED] needs additional time in between vaccinations in order to lessen the chance of a reaction from the DTaP vaccination. (*Id.*). [REDACTED] physician has determined that an extra 14 days, until October 8, 2019, is sufficient. (*Id.*). This request is coming from a long time treating physician who is fully aware of this child and [REDACTED] history.

In contrast, your email to [REDACTED] and [REDACTED] on September 24, 2019 states there was a “careful review of...[REDACTED] vaccination records.” *Exhibit 6, Emails from McKenna.* After describing this review, your email lists the two vaccinations that [REDACTED] needs to become fully compliant with the vaccination requirements and to return to school. (*Id.*). The email goes on to state “[p]lease note, if [REDACTED] gets the above doses prior to October 8th, she may return sooner. (*Id.*). This sentence was also highlighted to show its importance1. [REDACTED] is a [REDACTED], not a [REDACTED]. This does not reflect a “careful review.” In another email where it appears you are referring to [REDACTED] you call [REDACTED]. (*Id.*). Are you sure you reviewed the correct vaccination record and file and that these are the requirements are for [REDACTED], and not for another student?

[REDACTED] and [REDACTED] are in the process of vaccinating [REDACTED] but their physician has documented that it is not safe for [REDACTED] to receive the next vaccination until October 8,

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<sup>1</sup> Highlighting did not come through on the printed emails but this portion of the email is highlighted in the forwarded email.

2019. *See Exhibit 5.* We request that [REDACTED] be allowed to return to school until October 8, 2019, when [REDACTED] is scheduled to receive the Adacel vaccination, which will bring [REDACTED] into full compliance with the vaccination requirements for [REDACTED] grade and age.

[REDACTED]

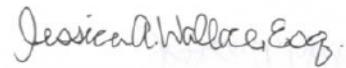
[REDACTED] and [REDACTED] have also begun the catch-up schedule for their [REDACTED]. [REDACTED] received the MMR vaccine, a live virus vaccine, on September 10, 2019 and the Hepatitis B vaccine on September 23, 2019. *Exhibit 7, Letter with [REDACTED] Vaccines Received and Future Vaccination Dates from Dr. Kari W. Bovenzi, dated September 23, 2019.* [REDACTED] is scheduled to receive the Varicella vaccine on October 8, 2019. (*Id.*) On September 23, 2019, [REDACTED] was excluded from school.

Your email to [REDACTED] on September 24, 2019 indicates that in order for [REDACTED] to return to school [REDACTED] must receive several vaccinations, including two live virus vaccines--MMR and Varicella. *See Exhibit 6.* It should be noted that [REDACTED] last name is [REDACTED] and not [REDACTED], as you had referred to her in your email. (*Id.*) [REDACTED] treating physician has provided a letter indicating that [REDACTED] cannot be vaccinated with Varicella until 28 days after 9/10/19. *See Exhibit 7.* The CDC also advises that if live injected vaccines are not administered at the same visit, they should be separated by at least 4 weeks. *Exhibit 8, General Recommendations of the Advisory Committee on Immunization Practices (ACIP).* Four weeks from the date of [REDACTED] live MMR vaccination is October 8, 2019, the day that [REDACTED] doctor's visit is currently scheduled. *See Exhibit 7.*

The Centers for Disease Control and Prevention (CDC) state that the second dose of MMR may be administered as early as 4 weeks after the first dose. *Exhibit 9, Pink Book Minimum Interval Table.* In regards to calculating intervals between doses, 4 weeks = 28 days. *Exhibit 8.* The CDC has recognized that doses administered too close together or at too young an age can lead to a suboptimal immune response. *See Exhibit 8.* Even more, the CDC states that when there is a violation of the minimum interval, immunization programs and/or school entry requirements may choose not to accept the doses given earlier than the minimum interval. *Exhibit 10, Violation of Minimal Interval.*

[REDACTED] and [REDACTED] are doing everything they can to comply with this mandate; however, you are asking them to go against the medical advice of their children's treating physician and the recommendations of the CDC. These children have been excluded from school and are being deprived of their right to a free education. Due to the foregoing and the unique circumstances surrounding each one of these children, we request that you allow [REDACTED], [REDACTED] and [REDACTED] to return to school until October 8, 2019. This will allow time for [REDACTED] to have the consult with [REDACTED] local specialist and pediatrician and to obtain a more detailed medical exemption, for [REDACTED] to become fully compliant with the vaccination requirements, and would allow the appropriate and recommended amount of time for [REDACTED] to receive the additional vaccinations. If you are unable to comply with this request, please contact our office immediately to discuss this very urgent situation.

Very truly yours,



Jessica Wallace, Esq.

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